

STATE OF IOWA  
PROPERTY ASSESSMENT APPEAL BOARD

**Todd L. Sirotiak,**  
Appellant,

**v.**

**City of Ames Board of Review,**  
Appellee.

**ORDER**

**Docket No. 14-100-0384**  
**Parcel No. 09-09-425-030**

On December 15, 2014, the above-captioned appeal came on for consideration before the Iowa Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2)(a-b) (2013) and Iowa Administrative Code rules 701-71.21(1) et al. Appellant Todd L. Sirotiak was self-represented and requested his appeal be considered without a hearing. Assistant City Attorney Mark O. Lambert represented the Board of Review. The Appeal Board now, having examined the entire record and being fully advised, finds:

***Findings of Fact***

Todd L. Sirotiak, owner of property located at 817 Gaskill Drive, Ames, Iowa, appeals from the City of Ames Board of Review decision reassessing his property. According to the property record card, the subject property consists of a one-and-one-half-story, single-family dwelling with 1386 square feet of living area; a full, unfinished basement; an attached one-car garage; a deck and a screened porch built in 1941. The dwelling has an average quality grade (4) and is listed in very good condition. Its site is 0.21-acres.

The real estate was classified residential on the initial assessment of January 1, 2014, and valued at \$182,400, representing \$46,700 in land value and \$135,700 in improvement value. This was a change from the 2013 assessment making it a reassessment year with all grounds of protest available. Sirotiak protested to the Board of Review on the ground that the assessment was not equitable

compared to like properties in the taxing district under Iowa Code sections 441.37(1)(a)(1)(a). The Board of Review denied the protest.

Sirotiak then filed his appeal with this Board and urged the same ground. He claims \$168,500 is the actual value and fair assessment of the subject property.

Sirotiak claims the properties identified by the Board of Review are not located in the same assessing district, which is a requirement of an equity comparison. (Exhibit A). In doing so, he appears to rely on a neighborhood map included in a later described appraisal. Iowa Code section 441.37(1)(a)(1)(a) and Iowa case law require the comparable properties be located in the same taxing district and the properties identified by the Board of Review, those used by the appraiser, and the subject property are all located in the City of Ames. As a result, we find no merit to this claim.

Sirotiak listed five properties on his Board of Review petition that he believed were comparable. The parcel number, address, and assessed value of each was listed, however, he only provided detailed information about one property, 814 Gaskill Drive. There is no detailed information about the remaining four properties to determine if they are comparable to Sirotiak's property and none appear to be recent sales. A sale price or established market value is needed to complete an assessment/sales ratio for an equity analysis. Because Sirotiak has not submitted any information upon which we cannot evaluate the comparability of these properties or provided any recent sales data for these properties, we give this evidence no consideration.

814 Gaskill Drive is assessed at \$181,200, representing \$42,300 in land value and \$138,900 in dwelling value. He claims its assessment increased 8%, while his increased 12%. In his opinion, his dwelling is inferior and only has one bathroom, yet is assessed for more than 814 Gaskill. We note the 814 Gaskill dwelling value (\$138,900) is higher than the subject property dwelling value (\$135,700) possibly to reflect its superior condition and amenities. Sirotiak's dwelling has a wood deck, screen

porch, and masonry veneer the other property lacks. We also note that Sirotiak's site is larger (0.21-acres) than the 814 Gaskill site (0.18-acres) which likely accounts for his higher land value.

814 Gaskill sold for \$140,000 in March 2012 and its 2014 assessment is \$179,348. This results in an assessment/sales price ratio of 1.28. However, a typical assessment/sales ratio would compare the prior year's sale price (2013) to the current assessment (2014). Further, Sirotiak did not provide any recent sales or market value data for the subject property for comparison purposes.

The Board of Review submitted an appraisal completed by Dennis R. Loll, of Des Moines Real Estate Services, Norwalk, Iowa, with an effective date of January 1, 2014. Evans completed the sales comparison approach to value the subject property and concluded a fee simple market value of \$184,000 for the subject property.

Loll stated the subject's neighborhood is known for its curved roads and mature landscape. Some of the single-family homes in this neighborhood are adversely influenced by their proximity to multi-family or university uses, but not the subject or the neighborhood in general. In his opinion, the subject property is typical for the area and consistent with other properties in the area. He reports the subject property's design, condition, size, and market appeal conforms to other homes in the neighborhood.

Loll stated he searched for comparable sales in the subject's neighborhood, which is south of Iowa State University's central campus. He used three arm's-length sales of Ames dwellings roughly within one-third mile of the subject in his analysis. The sales occurred between June 2012 and November 2013 and ranged from \$172,000 to \$222,000, or \$114.50 to \$155.68 per-square-foot. The properties range in size from 1426 square feet to 1517 square feet, and are roughly of similar age, quality, and condition as Sirotiak's dwelling. The comparables were adjusted for condition, living area, baths, and other amenities. Adjusted sale prices were \$167,500 to \$205,000, or \$111.52 to \$143.76 per-square-foot. The subject property is assessed within the range at \$182,400 or \$131.60

per-square-foot. This evidence is helpful for a market value claim; however, the assessed values of these properties were not provided and an assessment/sales ratio was not developed for an equity analysis.

### ***Conclusions of Law***

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A. This Board is an agency and the provisions of the Administrative Procedure Act apply. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review, but considers only those grounds presented to or considered by the Board of Review. §§ 441.37A(3)(a); 441.37A(1)(b). New or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption the assessed value is correct. § 441.37A(3)(a). However, the taxpayer has the burden of proof. § 441.21(3). This burden may be shifted; but even if it is not, the taxpayer may still prevail based on a preponderance of the evidence. *Id.*; *Richards v. Hardin County Bd. of Review*, 393 N.W.2d 148, 151 (Iowa 1986).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. § 441.21(1)(b). Market value essentially is defined as the value established in an arm's-length sale of the property. *Id.* Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. *Id.* If sales are not available to determine market value then "other factors," such as income and/or cost, may be considered. § 441.21(2).

Sirotiak claims that the assessment of his property is not equitable as compared with assessments of other like property in the taxing district. § 441.37(1)(a)(1)(a). The term "taxing

district” refers to property within the jurisdiction of the assessor and board of review. *Maytag Co. v. Partridge*, 210 N.W.2d 584 (Iowa 1973).

To prove inequity, a taxpayer may show that an assessor did not apply an assessing method uniformly to similarly situated or comparable properties. *Eagle Food Centers v. Bd. of Review of the City of Davenport*, 497 N.W.2d 860, 865 (Iowa 1993). Alternatively, a taxpayer may show the property is assessed higher proportionately than other like property using criteria set forth in *Maxwell v. Shivers*, 133 N.W.2d 709 (Iowa 1965). The six criteria include evidence showing

“(1) that there are several other properties within a reasonable area similar and comparable . . . (2) the amount of the assessments on those properties, (3) the actual value of the comparable properties, (4) the actual value of the [subject] property, (5) the assessment complained of, and (6) that by a comparison [the] property is assessed at a higher proportion of its actual value than the ratio existing between the assessed and the actual valuations of the similar and comparable properties, thus creating a discrimination.”

*Id.* at 711. The *Maxwell* test provides that inequity exists when, after considering the actual and assessed values of comparable properties, the subject property is assessed at a higher proportion of this actual value. *Id.* The *Maxwell* test may have limited applicability now that current Iowa law requires assessments to be at one hundred percent of market value. § 441.21(1). Nevertheless, in some rare instances, the test may be satisfied.

Sirotiak listed five properties for equity comparison. Due to a lack of evidence, we cannot conclude whether four of these properties are comparable to the subject. Further, there is no indication that any of these four properties recently sold. It is necessary to have recent sales or established market value and assessment data for comparable properties to develop an assessment/sales ratio and to complete the equity analysis contemplated by *Maxwell*.

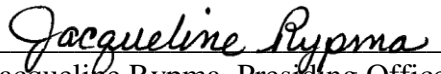
Sirotiak provided one recent sale of a property located at 814 Gaskill. However, one comparable is insufficient evidence to prove inequity. *Maxwell*, 133 N.W.2d at 712. Further, Sirotiak

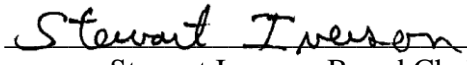
did not provide any recent evidence of the subject property's actual fair market value to conduct the assessment/sales ratio comparison contemplated in *Maxwell*.

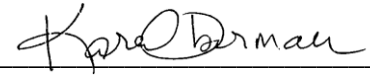
Lastly, Sirotiak did not claim that the assessor applied an assessment method in a non-uniform manner to similarly situated properties as described in *Eagle Food Centers*. Moreover, his evidence was insufficient to show the property was inequitably assessed under *Maxwell*. For these reasons, Sirotiak did not prove by a preponderance of the evidence that the property is inequitably assessed.

THE APPEAL BOARD ORDERS that the January 1, 2014, assessment as determined by the Ames City Board of Review is affirmed.

Dated this 16th day of February, 2015.

  
Jacqueline Rypma, Presiding Officer

  
Stewart Iverson, Board Chair

  
Karen Oberman, Board Member

Copies to:  
Todd L. Sirotiak  
817 Gaskill Drive  
Ames, IA 50014  
APPELLANT

Mark O. Lambert  
Assistant Ames City Attorney  
PO Box 811  
Ames, IA 50010  
ATTORNEY FOR APPELLEE